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HOUSE OF REPRESENTATIVES, February 13, 1864.—Laid on the table and ordered to be printed.

MESSAGE OF THE PRESIDENT.

RICHMOND, VA., Feb 12, 1864.

To the House of Representatives:

In response to your resolution of the 29th ultimo, I herewith transmit for your information a communication from the Secretary of of War, submitting copies of papers relating "to the trial and conviction of W. E. Coffman by a military court," and to "a writ of *habeas corpus* issued from the circuit court of Rockingham county, Va., to prevent the execution of said Coffman."

JEFFERSON DAVIS.

COMMUNICATION FROM SECRETARY OF WAR.

CONFEDERATE STATES OF AMERICA,
War Department,
Richmond, Va., February 11, 1864.

To the President of the Confederate States:

SIR: I have received the following resolution of the House of Representatives, referred by your Excellency to this department:

"*Resolved*, That the President be respectfully requested to communicate to this House all the orders, correspondence and other papers relating to the trial and conviction of W. E. Coffman by a military court, under orders from General Imboden, and also relating to a writ of *habeas corpus* issued from the circuit court of Rockingham county, Va., to prevent the execution of said Coffman"

In response, I have the honor to transmit herewith the papers called for by the House, with the exception of the record of the court by which Mr. Coffman was tried, said record having been stolen from the office of the provost marshal at Harrisonburg, as will appear from the enclosed affidavit. A copy of General Imboden's order directing the execution of Coffman is transmitted.

Very respectfully, your obedient servant,

JAMES A. SEDDON,
Secretary of War.

HEADQUARTERS, STAUNTON, VA., Feb. 6, 1864.

General S. COOPER:

GENERAL: Enclosed please find the papers in the case of W. E. Coffman. As you will see, the proceeding of court martial in the case have been stolen from the office of provost marshal at Harrisonburg.

I am, General, very respectfully,

Your obedient servant,

J. Q. A. NADENBOUSCH,

Col. commanding post.

MOUNT JACKSON, Feb. 4, 1864.

Captain JOHN AVIS,

Provost Marshal, Staunton:

CAPTAIN: I enclose you a copy of the general order sentencing Coffman. The original proceedings in the case were sent to Harrisonburg in December to be used in the *habeas corpus* trial before Judge Allen, and left with Captain Smith, provost marshal. I understand the record was stolen from Captain Smith's office. I write to him by this day's mail to forward you the record if it has been found. If not, to send you a certificate of the loss by theft of some one. The only papers I have bearing on the case at all, are the general orders I made convening the court and afterwards sentencing him to be hanged.

Very respectfully, your obedient servant,

J. D. IMBODEN,

Brigadier General.

PROVOST MARSHAL'S OFFICE,
Harrisonburg, Va., Feb. 6, 1864.

I, William McK. Wartmann, solemnly swear, that I am a clerk in the provost marshal's office, Harrisonburg, Va.; that some time in the latter part of December, 1863, Captain Smith, provost marshal, handed to me the original proceedings of the court martial in the case of Wm. E. Coffman, with directions to copy the same and forward the copy to Messrs. Michie and Harman. The original papers were handed to me late in the afternoon, and not having time to copy them on that day, I proceeded to put them in a private, and, as I supposed at the time, a secure part of the desk, preparatory to copying it in the morning. No one was in the office but myself when the papers were put away. On entering the office next morning, I found everything as I had left it on the preceding evening, except, that the papers above referred to, had been abstracted during the

night. The lock of the office door had been temporarily removed for repairs, and it is presumed the thief made use of that circumstance to obtain access to the office and abstract the record. No clue to the missing record has been obtained since.

WM. McK. WARTMANN.

Sworn to before me this 6th day of February, 1864.

O. C. STIRLING, *J. P.*

PROVOST MARSHAL'S OFFICE,
Harrisonburg, Va., Feb. 6, 1864.

Captain AVIS, *Provost Marshal:*

Enclosed please find affidavit, directed by General Imboden to be sent to you. No trace of these papers has ever been discovered since their abstraction.

Respectfully, &c.,

J. W. G. SMITH,
Capt. and Pro. Mar.

HEADQUARTERS VALLEY DISTRICT,
Kratzer's Spring, Dec. 4, 1863.

GENERAL ORDERS,
No. 14.

I. At a general court-martial, continued and held at these headquarters at Dudley's farm, on the 2nd day of November, 1863, and adjourned to and continued and held at Harrisonburg, December 3, 1863, pursuant to General Orders, No. 4, September, 1863, from these headquarters, was tried William E. Coffman, a citizen of Rockingham county, Virginia, on the following charge and specification:

CHARGE.—Violation of the 57th article of war

SPECIFICATION.—In this, that the aforesaid William E. Coffman, has been, for an indefinite time, in regular correspondence with the enemies of the Confederate States, without authority and to the injury of the aforesaid States. Furthermore, that he has been, for a long time, in the habit of lurking in the neighborhood of Confederate States forces, and giving information and intelligence, gained thereby, to the enemies of the aforesaid Confederate States; and that he does not belong to the military organization either of the United States or of the Confederate States.

FINDING.

Of the specification,	Guilty.
Of the charge,	Guilty.

SENTENCE.

And the court do therefore sentence the said William E. Coffman to

be hanged by the neck until he is dead, at such time and place as the commanding general may direct.

But the court, being in great doubt as to the extent of the jurisdiction of courts martial over the persons of citizens, not soldiers, guilty of the crime charged against the accused, expressly decline to decide whether their jurisdiction extends to the person of William E. Coffman, who appears to be a citizen of the State of Virginia, and not connected with the army. The court comes to the anomalous decision with regret, but being unable to decide upon the propriety of acquitting the accused on the ground of want of jurisdiction, and being, by the doubt entertained upon the point, unable to convict and sentence him absolutely, they proceed upon the asssumption that the ordes referring the case to them for trial is sufficient authority for their jurisdiction of the case, and make their finding and sentence dependent upon the validity and legality of that order.

II. The proceedings, findings and sentence, in the foregoing case, are approved. The commanding general with the highest respect for the opinion of the court, has maturely considered its qualificatcn of the sentence, arising from the doubt on the mind of the court, whether it had jurisdiction of the case, and making its sentence dependent upon the validity and legality of the order of the commanding general, referring the case to the court for trial, which, if legal and valid, the court assumes conferred jurisdiction, and he has, without difficulty, arrived at the concluision that a general court martial has jurisdiction to try any one—citizen, alien enemy, or soldier—for a violation of the 57th article of War. He is of opinion that violations of said article of war can only be punished by sentence of a court martial and not by a civil tribunal. The pronoun "whosever" was evidently intended to mean any one without exception, who "shall be convicted," &c. If Congress had intended to restrict the penalty of the 57th article of war, it would clearly have employed the restrictive clause "belonging to the armies of the Confederate States," found in the 55th article. Not having done so, the conclusion seems irresistable, that the broad language of the article in question was intended to embrace all classes of persons, without exception, as capable of committing the high crimes enumerated against the military code—the articles of war of the Confederate States. And if capable of committing the crime, they must be amenable to the tribunal created for the trial of such offenders—a general court martial.

The commading general therefore decides without hesitation or doubt, that the Court had jurisdiction to try the case of the said William E. Coffman, and that the order referring said case to the court was legal and valid.

It is therefore ordered that the said William E. Coffman be securely ironed and kept in close confinement until Friday, the 18th day of December, 1863, and that on that, day, between the hours of 9, A. M. and 4, P. M., he be taken thence, under charge of the brigade officer of the day, and hanged by the neck, in the presence of this brigade, till he is dead, at such place as the brigade may then be encamped, or, if the exigencies of the service shall call the brigade too far away,

that this sentence be carried into execution by the provost marshal and guard, where he may be confined on the day and between the hours above named.

By command of

J. D. IMBODEN,
Brigadier General Commanding.

MOUNT JACKSON, SHENANDOAH COUNTY, *February* 4, 1864.

Official:
F. B. BERKELY, *A. A. G.*

OFFICE PROVOST MARSHAL, *Staunton, December* 17, 1863.

GENERAL: Please see enclosed a copy of writ of *habeas corpus* which has just been served on me. Not knowing whether my communication would reach you or not, I have telegraphed the Secretary of War for instructions also. Please direct me.

I have the honor to be, very respectfully,
Your obedient servant,
JOHN AVIS,
Captain, Provost Marshal.

Brigadier General J. D. IMBODEN, *commanding, &c.*

THE COMMONWEALTH OF VIRGINIA:

To the Sheriff of Augusta county, and to General John D. Imboden, Captain John Avis, Provost Marshal at Staunton, and George Harlan, Jailor of Augusta county:

Whereas, it is alleged by William E. Coffman that he, a citizen of Rockingham county, in Virginia, in no wise connected with the army or navy of the Confederate States, and not liable to any military duty either to the State of Virginia or to the Confederate States of America, has been arrested by the military authorities on the charge of aiding deserters from the army and communicating with the enemy. Has been tried before a court martial at the camp of General John D. Imboden and sentenced to be hanged on the 18th day of December, 1863, and is now confined in the jail of Augusta county, Virginia, waiting the execution of said sentence; and that, as such citizen, his said arrest, trial and present imprisonment are unlawful; and it appearing from the specification of the charge upon which he was thus tried that the said Coffman does not belong to the military organization of either the United States or the Confederate States,

and the court expressly declining to decide whether their jurisdiction extends to the person of William E. Coffman, who appears to be a citizen of the State of Virginia and not connected with the army, but, finding him guilty, submitted their action to the commanding general, making their finding and sentence depend not upon the legality and validity of the order referring the case to them, which finding and sentence are approved by the commanding general, John D. Imboden, who thereupon ordered that said William E. Coffman be securely ironed and kept in close confinement until Friday, the 18th day of December, 1863, and that on that day, between the hours of nine, A. M., and four, P. M., he be hanged by the neck till he is dead; and the said William E. Coffman having prayed that the Commonwealth writ of *habeas corpus ad subquerandum* may be awarded him, that the cause and validity of his said arrest, trial, sentence and present imprisonment may be fully enquired into and adjudicated. And there being probable cause to believe that the said William E. Coffman is now detained without lawful authority, therefore you, the said John D. Imboden, John Avis and George Harlan, or whoever of you shall have the custody or control of William E. Coffman, are required, in the name of the Commonwealth of Virginia, to bring before me the body of the said William E. Coffman, at the court house of Rockingham county, Virginia, on the 23rd day of December, 1863, together with the grounds and cause of said arrest, trial, conviction, sentence and present imprisonment, the record of his said trial, and all other evidence touching the case which the truth and right of the matter shall demand, and him, the said William E. Coffman, you shall faithfully keep until he shall be so produced and his cause fully investigated. And you, the said Sheriff of Augusta county, Virginia, are hereby required forthwith to execute this precept upon the said John D. Imboden, John Avis and George Harlan, and make a return thereof and the manner of executing the same at the place and time when and where the same is returnable, under the penalty by law provided. Given under my hand, a Judge of the twelfth judicial Circuit in Virginia, this the 16th day of December, 1863.

(Signed.) J. W. F. ALLEN,
Judge Twelfth Judicial Circuit in Virginia.

Official:

JOHN AVIS,
Captain, Provost Marshal.

HEADQUARTERS VALLEY DISTRICT, IN THE FIELD,
December 16, 1863.

The within paper has just been handed to me. Assuming it to be official, I acknowledge service thereof. In reply thereto I decline obedience to the writ on the ground, first, that, in the case as stated in the writ, a State court has no power to take the prisoner out of his present custody. He has been regularly tried before a court martial,

organized according to the laws of the Confederate States and the articles of war of the same, and found guilty, on the facts, of one of the highest crimes known to the military code.

I hold that none but a Confederate States civil court can review the proceedings of said court martial.

Secondly. The guilt of the prisoner being clear beyond a doubt, he shall not escape the penalty of his crime on a mere technicality, if I can prevent it. I have, for nearly three years, been exposing my life, as a citizen of Virginia, to defend my home and country against a barbarous foe. This criminal ceased to be entitled to protection of our laws when he took sides with our enemy, and I hold I had the right to hang him as soon as caught, without a trial; but, out of abundant caution, I gave him a trial. He is found guilty. I have sentenced him to death and will hang him. I hold myself responsible before the courts and country for doing what I deemed a righteous act.

J. D. IMBODEN,
Brigadier General Commanding.

A copy:
JOHN AVIS,
Captain, Provost Marshal.

OFFICE PROVOST MARSHAL,
Staunton, Dec. 17th, 1863.

GENERAL: At the same time, I dispatched to you for instructions, in regard to the writ of *habeas corpus*, in the case of Wm. E. Coffmon, sentenced by court-martial to be hung to-morrow, I dispatched by courier to General Imboden, enclosing a copy of the writ. Please see enclosed a copy of the writ, with General Imboden's return; also a copy of his letter ordering me to proceed to execute the sentence at the time and place ordered.

In the meantime receiving your dispatch directing me to obey the writ, I shall suspend the execution in accordance with your direction. I will, however, hold Coffman in my custody until the day designated in the writ, and in the event no farther instructions are received from you, I will produce him as required. All papers in my possession in reference to his case are herewith forwarded.

I have the honor to be, very respectfully,
Your obedient servant,
JOHN AVIS,
Captain, Provost Marshal.

Gen. S. COOPER,
Adjutant and Inspector General.

RICHMOND, Dec. 17th, 1863.

Capt. JOHN AVIS,
Provost Marshal,

Obey the writ of *habeas corpus* in the case of Wm. E. Coffman, and forward papers to this office.

S. COOPER.

OFFICE PROVOST MARSHAL,
Staunton, Dec. 17th, 1863.

GENERAL—Since receiving the writ with your returns, and also your letter, I have received the enclosed dispatch from General Cooper. In accordance with his directions, I have prepared the papers, and will forward them by mail to-morrow.

I have the honor to be, General,
Very respectfully, your obedient servant,
JOHN AVIS, *Captain,*
Provost Marshal.

Brigadier General J. D. IMBODEN,
Commanding Valley District,
Brownsburg, Va.

HEADQUARTERS, VALLEY DISTRICT,
IN THE FIELD,
December 17th, 1863.

Capt. JOHN AVIS, *Provost Marshal,*
Staunton, Va.:

CAPTAIN: The writ of *habeas corpus* in the case of Wm. E. Coffman has just been received by me. I have made my return on it, and send it back to you. You will please retain a copy of the writ and return, and send the original to Judge Allen, or the clerk of the circuit court of Rockingham. I decline to obey the writ, and now direct you to execute the sentence of death on William E. Coffman, according to the order in his case, at the time therein mentioned. I assume the whole responsibility of the execution, and also the responsibility of ordering you to disregard the writ. A more unmitigated scoundrel was never hung. I will camp near Brownsburg to-night.

Yours, respectfully,
J. D. IMBODEN, *Brig. General.*

A true copy.
JOHN AVIS,
Captain, Provost Marshal.

[TELEGRAPHIC.]

OFFICE PROVOST MARSHAL,
Staunton, Va., December 17, 1863.

Gen. S. COOPER,
Adjutant and Inspector General, Richmond:

W. E Coffman is now in my custody, sentenced to be hanged, to-morrow, by court-martial. A writ of *habeas corpus* has just been served on me. I do not know that I can communicate with General Imboden. What shall I do? Tried under the fifty-seventh article of war.

JOHN AVIS,
Captain, Provost Marshal.

[TELEGRAPHIC.]

OFFICE PROVOST MARSHAL,
Staunton, Va., December 17, 1863.

S. COOPER,
Adjutant and Inspector General, Richmond, Va.:

Since my dispatch to you, I have communicated with General Imboden, who has made return on the writ, and directs me to execute the man.

JOHN AVIS,
Captain, Provost Marshal.

[TELEGRAPHIC.]

OFFICE PROVOST MARSHAL,
Staunton, Va., December 21, 1863.

General S. COOPER,
Adjutant and Inspector General, Richmond, Va.:

Must I obey the writ in the Coffman case, or only suspend execution? One order from you directed me to obey the writ; the other, to suspend execution until further orders. The writ is returnable on the 23d instant.

JOHN AVIS,
Captain, Provost Marshal.

[TELEGRAPHIC.]

RICHMOND, VA., *Dec.* 22, 1863.

Captain AVIS:

Suspend the execution of Wm. E. Coffman until further orders, and obey the writ of *habeas corpus*. Send the record to this office.

S. COOPER.

OFFICE PROVOST MARSHAL,
Staunton, Va., December 23, 1863.

Captain J. W. G. SMITH,
Provost Marshal, Harrisonburg, Va.:

I send by to-day's stage, under charge of private J. B. Blakemore, of my guard, Wm. E. Coffman, in compliance with the writ in his case, and returnable on this day. He is sent in obedience to orders from the Secretary of War.

Very respectfully, your obedient servant,

JOHN AVIS,
Captain, Provost Marshal.

By order of the Secretary of War, I comply with the requirements of the within writ, and have sent the within named, W. E. Coffman, to Rockingham county court-house, this December 23, 1863, and would respectfully ask that the trial be postponed until some day after the first of January, giving the Government opportunity of preparing the case, and giving me an opportunity of conferring with General Imboden.

JOHN AVIS,
Captain, Provost Marshal.

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